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June 14, 2012

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 2055

Re: WT Docket No. 11-49
Progeny LMS, LLC
Request by Progeny LMS, LLC for Waiver of Certain Multilateration Location and Monitoring Service Rules
EX PARTE COMMUNICATION

Dear Ms. Dortch:

The Telecommunications Subcommittee of the American Petroleum Institute ("API"), by its undersigned counsel, submits this *ex parte* letter regarding the interference testing conducted by Progeny LMS, LLC's ("Progeny") as required by the Commission in its Order conditionally granting Progeny a waiver of certain M-LMS service rules.[1] API agrees with the commenters in this proceeding that Progeny must expand its M-LMS interference testing, both to include a comprehensive sample of Part 15 devices and to more accurately reflect the manner in which such devices are deployed.[2]

API is a national trade association representing approximately 500 companies involved in all phases of the petroleum and natural gas industries, including the exploration, production, refining, marketing and transportation of petroleum, petroleum products and natural gas. API member companies make extensive use of equipment operating in the license-exempt bands to ensure effective oil and natural gas industry operations. The oil and natural gas industry uses 902-928 MHz band frequency hopping equipment primarily to provide medium to low speed

[1] *See* In the Matter of Request by Progeny LMS, LLC for Waiver of Certain Multilateration Location and Monitoring Service Rules, *Order*, WT Docket No. 11-49 (rel. Dec. 20, 2011) ("Progeny Waiver").

[2] *See e.g.*, Comments of the Wireless Internet Service Providers Association, Comments of Cellnet Technology, Inc., a Landis+Gyr company, Reply Comments of Itron, Inc., Letter from Brett Kilbourne, Vice President and Deputy General Counsel of the Utilities Telecom Council dated May 3, 2012.

(*e.g.*, 9600 baud) serial telemetry in connection with systems that remotely monitor and operate large production fields, sometimes comprised of thousands of oil and/or natural gas wells. These systems collect and transmit to a central automation center, critical data regarding well pressures, temperature, and rates of flow that are essential to the coordinated and safe operation of a production facility.

The 902-928 MHz band is also used in pipeline and natural gathering systems to support measurement of pipeline pressure and flow rates, detect leaks, and open and close valves. Such functions are critical to safe and efficient operations and to the public health, particularly in the event of a leak.

In addition to frequency hopping devices, the energy industry uses spread spectrum systems operating in the 902-928 MHz band to operate medium-speed IP radios for fixed and mobile computing. The systems used by energy industry companies often use the very same equipment deployed by Wireless Internet Service Providers ("WISPs") providing commercial broadband consumer services.

The continued operation of the license-exempt systems by petroleum and natural gas companies and utilities is essential to protecting lives, health and property, both in support of the day-to-day operations of these companies, as well as during responses to emergency incidents.

API urges the Commission to carefully consider the interference potential of Progeny's proposed M-LMS system in the 902-928 MHz band. As commenters in this proceeding point out, the 902-928 MHz band is heavily occupied by thousands of devices. Of these, Progeny limited its testing to 17 models, the majority of which are consumer devices.[3] Except for the Motorola Canopy broadband wireless system, Progeny does not appear to have tested any devices typically used by the oil and natural gas industry.[4] In addition, Progeny's test results indicate that the tested devices may not have been operated in the manner in which such devices typically are deployed in the industry.

Due to the significant importance of the 902-928 MHz band to the oil and natural gas industry, API's members are justifiably cautious about any proposals that may increase interference in the band. It would be catastrophic to upset a well-established spectral eco-system in the 902-928 MHz band for the benefit of any one entity. As the Commission has increasingly favored auctions benefitting wireless carriers as its preferred spectrum assignment methodology,

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[3] *See* Progeny LMS, LLC, Demonstration of Compliance with Section 90.353(d) of the Commission's Rules, WT Docket No. 11-49 (filed Jan. 27, 2012) ("Progeny Test Report")

[4] *Id* at 17.

the flexibility of the unlicensed bands has provided a fall back option for oil and gas companies and other Critical Infrastructure Industry ("CII") users and, thus, provided the Commission with a "margin for error" in its spectrum policies. If the 902-928 MHz band environment is upended, oil and natural gas companies and other CII entities likely will have no other refuge.

At a minimum, before the Commission takes further action, API agrees with other commenters that Progeny should be required to conduct joint testing with a thorough representative sampling of users and manufactures. Only in that way will the Commission preserve the integrity of this important band.

Your attention to this matter is appreciated. Please feel free to contact the undersigned with any questions.

Sincerely,

Jack Richards

Jack Richards
Greg Kunkle